

State 20 J-1 VISA WAIVER PACKAGE FOR SPECIALISTS

Please provide an original and two (2) copies of the J-1 Visa Waiver Application assembled in the following order. (The USIA File Number must be included on all pages.):

1. Cover letter from sponsoring/submitting entity, with an original signature, on the facility's letterhead paper, and G-28, if appropriate. Cover Letter format immediately follows this page.
2. Mississippi State Department of Health's J-1 Policy Guidelines (Signed and dated; Original signatures required.)
3. Department of State Data Sheet (two copies) <http://travel.state.gov/DS-3035.pdf>
4. Readable copies of J-1's IAP-66 forms for each year in J-1 status (from entry to the present). The foreign-trained provider must not have been "out-of-status" for more than 180 days since receiving a visa.
5. CV, including Social Security Number
6. Notarized USIA Exchange Visitor Attestation form (Blank copy is included in the packet)
7. Notarized USIA Employer Attestation form (Blank copy is included in the packet)
8. Copy of notarized, dated, executed tentative employment contract (See "Employment Contract" for minimum requirements.)
9. Documentation of employers' regional and national recruitment efforts (See "Recruitment" for minimum requirements).
10. Letters of community support from similar specialists, local referring physicians, hospital administrators, etc.
11. Letters of recommendation from those who know the J-1 physician's qualifications.
12. Qualifications (copies of diplomas, licenses, board certification).
13. Proof of facility's existence (business license, occupancy permit, phone book listing, etc.) Further documentation may be required.
14. List of all specialists, their fields of practice, and number of hours available to patients within the service area, and include information on the proposed specialists referral pattern.
15. Notarized attestation that employer and staff were not acquainted with the J-1 physician prior to his/her application. Statement that the parties are not related.
16. No objection statement, if applicable.
17. 1-94.
18. Completed Return Address label form. <http://travel.state.gov/DS-3035.pdf>

COVER LETTER

REQUIRED FORMAT FOR FACILITIES/EMPLOYERS MISSISSIPPI STATE 20 PROGRAM

WAIVER REQUEST LETTER FROM PROSPECTIVE EMPLOYER TO MSDH

Ms. Perelia Taylor
Division Director
Office of Primary Care Liaison
Mississippi State Department of Health
Post Office Box 1700
Jackson, MS 39215-1700

Dear Ms. Taylor:

The letter of need must be written on the employer's letterhead stationery, to include the address, phone number and FAX number, if any. Letters of need, contracts, and forms must contain original signatures. Original letters of support from State and county officials must be mailed directly to the waiver review office.

The letter must also INCLUDE THE FOLLOWING:

1. A complete description of the program or activity in which the foreign-trained provider will be engaged, including factual evidence of the way in which the program or activity serves the national or international public interest, and any other facts considered germane to the subject.
2. Statement of need for the specialty physician in the community. See General Guidelines for minimum requirements.
3. Name of doctor and their medical specialty.
4. Complete address of practice location including street address, city and county.
5. Assertion that physician will practice care a minimum of 40 hours a week in an area or areas designated as having a shortage of health care professionals in the specific discipline. Include the days and hours of practice, counties of practice, and a statement that on-call and travel times are not included in the minimum hours.
6. Acknowledgment that all the terms and conditions of the Mississippi State Department of Health's J-1 Visa Policies have been incorporated into the employment agreement.

MISSISSIPPI J-1 VISA WAIVER GUIDELINES FOR SPECIALISTS

"STATE 20 PROGRAM "

General Guidelines Adopted July 10, 2002
(Revised for Specialists October 9, 2002)

The Mississippi State Department of Health (MSDH) is committed to assuring that all Mississippi residents have access to quality, affordable health care. The Office of the State Health Officer maintains the responsibility within the state of recommending and processing, through its Office of Primary Care Liaison, J-1 Visa waiver requests for the United States Information Agency's "State 20 Program", hereafter referred to as the "Program".

1. The primary purpose of the Mississippi J-1 Visa Waiver Program through the "State 20 Program" is to improve access to needed primary care by sponsoring physicians holding J-1 Visas. Specialist physicians may be approved for the J-1 Visa Waiver Program depending upon documentation of need.
2. The State of Mississippi recognizes that the J-1 Visa Waiver Program through the "State 20 Program" affords J-1 Visa holders the privilege of waiving their two-year foreign residency requirement in exchange for providing primary or specialty medical care in designated health professional shortage areas.
3. The operation of the Mississippi J-1 Visa Waiver Program through the "State 20 Program" is designed to be consistent with other health care programs and policies of the State of Mississippi.
4. The purpose of the following Guidelines is to articulate the conditions under which the State of Mississippi will request a waiver for physicians holding J-1 Visas through the "State 20 Program".
5. The review cycle begins upon MSDH receipt of the Site Pre-Determination Application and must be concluded within 180 days.
6. The operation of the Mississippi J-1 Visa Waiver Program through the "State 20 Program" will in no way interfere with any other J-1 Visa Waiver Program including, but not limited to, placements through the MSDH Office of Primary Care Liaison for the Appalachian Regional Commission. The Mississippi J-1 Visa Waiver Program through the "State 20 Program" is a separate and distinct program from any other program and is an additional program to any now operating within the State of Mississippi.
7. Before a completed application is submitted with the \$250.00 processing fee, the potential employer must submit a Site Predetermination Application to determine if the proposed J-1 physician placement will qualify for the Program.

8. The Mississippi State Department of Health's Guidelines are completely discretionary, voluntary, and may be modified or terminated at any time. The submission of a complete waiver package to the MSDH does not ensure an automatic waiver recommendation. In all instances, MSDH reserves the right to recommend or deny any request for a waiver.
9. An Employer/Medical Facility eligible to recruit and hire J-1 Visa physicians through the Program must be a facility that meets one of the following criteria:
 - a. a public health facility, an ambulatory medical facility, a community health center, a community mental health center; or
 - b. a hospital or state mental hospital.

GENERAL GUIDELINES:

The State of Mississippi is prepared to request through the Program waivers for specialists holding J-1 Visas for the purpose of waiving the two-year foreign residency requirement. All conditions of the following Mississippi J-1 Visa Waiver Guidelines must be met. Employers are encouraged to impose additional provisions in order to assure that the delivery of care is consistent with their facility's policies.

1. Physicians who have completed a U.S. residency training program in specialty areas are eligible to participate in Mississippi's "State 20" J-1 Visa Waiver Program. Specialists are not considered to be primary care physicians.
2. Examples of minimum criteria that will be utilized in the analysis of the request are included in "Minimum Criteria in Determining Need for Specialist". Criteria may be modified at a later date, and additional criteria will be added as different specialists are requested.
3. All requests must be fully documented as to the need for the specialty physician in the community. At a minimum, include the following:
 - a. a geographic description or rural character of the service area;
 - b. a description of the unmet need (such as gaps in service, waiting times, environmental factors, ethnic health care issues, etc.) within the community; discussions of barriers to the specific medical service or unique circumstances in regards to environment, community or service; percentage of medically indigent patients served by the site, not including Medicare or Medicaid patients; and how the J-1 Visa physician will satisfy and reduce the unmet need;
 - c. provide information on the current specialty resources in the area and the

current referral pattern, if appropriate. Letters of support from local or referring physicians specific to the proposed practice, and affiliated providers in the same/similar specialty; and affiliated hospitals are required;

- d. If new service, provide documentation to support the added service (medical/environmental related conditions of potential patients, number of proposed patients to utilize the service or practice, types of procedures to be performed, etc.);
 - e. a description of the activities that have occurred to recruit a U. S. physician. Refer to the "Recruitment" section for specifics.
- 4. It is recognized that emergency rooms are utilized for primary care services by some populations. Requests for emergency room physicians will be considered, however, as a specialty and will require documentation that primary care services are inadequate within the service area.
 - 5. The medical facility or practice must be located in a county identified as an area or areas with a designated shortage of health care professionals.
 - 6. Only the number of physicians needed to eliminate the physician shortage will be recommended. All full-time equivalent U. S. primary care providers and foreign providers, placed through the J-1 Visa Waiver programs, will be counted when determining threshold capacity.
 - 7. Waiver requests must be submitted by the employer or the employer's representative. All employment contracts must be between the sponsoring employer and the J-1 Visa physician.
 - 8. The facility or practice where the J-1 physician will work must have been operational at least six months at the time the waiver request is submitted. Evidence should include the business license and occupancy permit, facility address, fax and telephone numbers, staffing list. Exceptions may be considered.
 - 9. The facility or practice must accept all patients regardless of ability to pay. The sponsoring entity must agree to provide services to individuals without discriminating against them because (a) they are unable to pay for those services and/or (b) payment for those health services will be made under Medicare and Medicaid. The sponsor may charge no more than the usual and customary rate prevailing in the area in which services are provided.
 - 10. The facility must post a schedule of discounts or an adopted sliding fee scale in its waiting room. Charges must be discounted for persons at or below 200 percent of poverty level. If the person is unable to pay the charge, such people shall be charged at a reduced rate in accordance with an adopted and utilized policy or not charged at all. The notice in the waiting room must contain at least the information

set forth in the sample notice provided in this application package.

11. The J-1 Visa physician must accept assignment under Section 1842 (b)(3)(ii) of the Social Security Act as full payment for all services for which payment may be made under Part B of Title XVIII of such act (Medicare).
12. The J-1 Visa physician must enter into an appropriate agreement with the Mississippi state agency which administers the state plan for medical assistance under Title XIX of the Social Security Act (Medicaid) to provide services to individuals entitled to medical assistance under the plan.
13. The employer must inform the specific community that the J-1 physician will comply with the terms and conditions stated in the Guidelines by posting a notice in a conspicuous place in the waiting area of the practice stating that all patients will be seen regardless of their ability to pay.
14. The physician must not have been "out of status" (as defined by the Immigration and Naturalization Service of the United States Department of Justice) for more than 180 days since receiving a visa under 8 U.S.C. 1182 (j) of the Immigration and Nationality Act, as amended. The physician shall provide the FCC all copies of his or her Certificates of Eligibility for Exchange Visitor (J-1 Visa Waiver) Status, forms IAP-66 and every other document needed to verify status. The name of the foreign trained provider must be provided during the initial "Site Predetermination Application" process in order to remain compliant with this requirement.
15. A statement in writing is required indicating that the home government has no objection to the waiver if the physician's medical education or training has been funded by the government of the graduate's home country. He or she should obtain this statement from the physician's embassy in Washington or home country. The "No Objection" statements for these physicians should contain the following or similar language:

Pursuant to Public Law 103-416, the Government of (Country) has no objection if (name and address of the foreign medical graduate) does not return to (Country) to satisfy the two-year foreign residence requirement of 212(e) of the Immigration and Nationality Act (INA).

16. The J-1 physician and his/her employer must, on commencement of practice and annually thereafter through the contract period, verify the physician's practice site address and field of practice. The reporting can be submitted on the "J-1 Visa Physician Verification of Employment Form" contained in this application packet. The first report must be submitted within 30 days. The final verification of employment form must indicate whether the J-1 physician intends to remain in the shortage area to practice. Failure to submit accurate reports in a timely manner that comply with the Mississippi J-1 Visa Waiver Guidelines will jeopardize future eligibility for J-1 Visa physician placements.

17. Job transfers must be approved by MSDH before the transfer occurs so that it can be determined if the new area is rural and still underserved. Refer to “Transfer” section for related procedures and minimum requirements.
18. National Interest Waiver Requests will be considered only for those J-1 Visa Waiver applications that have been reviewed and/or recommendations made in regards to Mississippi’s State 20 and the Appalachian Regional Commission’s programs. Refer to “National Interest Waiver Letter Requests” section for specific policies and procedures.

EMPLOYMENT CONTRACT:

1. The J-1 physician is responsible for locating and negotiating a contract for a minimum of three (3) years and preferably four (4) years (unless the service requirement is amended) to provide care a minimum of 40 hours per week, as a specialist in an area or areas designated as having a shortage of health care professionals in Mississippi. The 40 hours must be performed during normal office hours, or hours which best suit the needs of the community, and may not be performed in less than four (4) days a week. A weekly schedule must be included in all waiver requests. It is recommended that each party have its own legal representation in preparation of the contract.
2. The J-1 physician must be board eligible in his/her field of practice and eligible for Mississippi licensure.
3. By regulation (Immigration and Nationality Act, as amended, section 214(k)(1) [8U.S.C. §1184 (k)(1)]), the J-1 physician must commence practice within 90 days of receiving a waiver.
4. The J-1 Visa physician must agree in writing that he or she will begin employment within 90 days of receiving a waiver; and a statement from the J-1 Visa physician regarding planned commitment to the community should be provided.
5. The Department of State and INS will be notified if a J-1 physician is found not to have reported or not be practicing medicine a minimum of 40 hours per week in the location for which the recommendation was made.
6. MSDH must be notified when the J-1 physician does not report for duty or leaves the practice site for whatever reason.
7. The employer and/or J-1 physician must notify MSDH of breach or termination of contract.
8. For the statutorily-required three years, there can be no changes to the contract that

would result in the J-1 physician leaving the agreed-upon site and treating the patients he or she has agreed to treat in the manner agreed upon, unless the contract of resulting transfer has been approved by the MSDH.

9. The contract should not state commencement or expiration dates. It is a tentative contract based on the application being approved through MSDH, U.S. Department of State and INS.
10. A non-competition clause or any provision that purports to limit the J-1 physician's ability to remain in the area upon completion of the contract term is prohibited by regulation.
11. The contract may include a liquidation clause, but is not required by MSDH. However, any clauses that would require the J-1 physician to pay a sum to the employer for experience gained on the job or for the J-1 physician remaining in the area after the contract has ended are not allowed.
12. Include in all employment contracts the following information:
 - guaranteed 3-year base salary
 - benefits
 - insurance
 - field of practice, practice site name and address for 40 hours for at least four days per week, not including travel and on-call time; days and hours on site, if multiple sites.
 - leave (annual, sick, continuing medical education, holidays)
 - commencement date begins within 90 days of receipt of J-1 visa waiver
 - statement that amendments shall adhere to State and Federal J-1 visa waiver requirements

RECRUITMENT:

1. The medical facility must provide evidence that other avenues, regionally and nationally, to secure a physician not bound by the 2-year home residence requirement have been undertaken over a period of at least the six (6) months prior to preparing/signing a contract.
2. Recruitment efforts must include regional and national print advertising stating the position available and the practice site location.
 - Copies of ads submitted must show the publication date. On-line ads must show the dates the ad was on-line.
 - Ads run at the time of or after preparation of the contract are not usable.
 - Advertising bill and payment receipts may be included.
 - Include copies of recruitment firm contracts, if applicable.

3. Documentation required, in response to national recruitment advertisements.
 - a. Copies of at least four (4) certified letters to medical schools.
 - b. Copies of CVs/resumes submitted in response to recruitment efforts.
 - c. Names of non-foreign physicians applying and/or interviewed and detailed justification of reasons not hired.
4. Priority hire must be given to physicians other than J-1 physicians (presumably U.S. or H-1Bs) who apply for the waiver job and are qualified. The employer must show that hiring a J-1 physician is a last resort.

PROHIBITIONS:

MSDH will not consider recommendations under the following circumstances:

1. Preliminary determinations over the telephone prior to final review of the Site Predetermination being completed.
2. Medical facilities located in those counties which are a part of the Appalachian Regional Commission are not eligible to recruit primary care J-1 Visa physicians through the Program, with the exception of psychiatrists and specialists.
3. Requests from areas/populations that have become fully served due to sufficient placement of physicians, unless a previously recommended J-1 physician has left the area or for replacement of local physicians who have discontinued practice in a designated area. Exceptional circumstances will be reviewed on a case-by-case basis.
4. More than two (2) site predetermination applications per employer each federal fiscal year.
5. Requests for a J-1 physician whose last IAP-66 has expired more than 210 days prior to the time the site predetermination application request is submitted.
6. Requests from an employer who is a former J-1 physician currently fulfilling his/her required 3-year obligation.
7. A waiver for a relative or acquaintance of the employer.

TRANSFERS:

The following guidelines and procedures apply for J-1 Visa physicians transferring from one shortage area to another, from one organization to another, or within the same shortage area. A "Transfer Notification Form" is included in this application packet. A minimum two-year commitment by the J-1 Visa physician to practice in the new site is

required.

1. The proposed transfer site must meet all of the eligibility and program requirements. Completion of a Site Predetermination Application will be required for those transferring to a shortage area (if not the same shortage area) or to a new sponsoring facility organization.
2. The foreign physician shall make no plans for a transfer or moving of personal possessions until the MSDH has reviewed and/or approved the request.
3. The J-1 physician retains sole responsibility for notifying their current employer of the intent to transfer, and payment of any financial penalty caused by a breach of contract, as determined by the original or current employer or as specified in their employment contract.
4. If the foreign provider is being retained by the original employer, and is being transferred to another shortage area to better serve the residents of Mississippi, the need for the foreign provider in the community must be documented.
 - a. Responsibility of the J-1 Visa Physician:
 - Notify the Office of Primary Care Liaison, in writing, of the intent to transfer, detailing the reason for the transfer; and a statement acknowledging agreement to the proposed transfer, if applicable.
 - Provide the Office of Primary Care Liaison with the name of the new employer/practice site, address, telephone number, hours of work, counties/communities of practice/service (if multiple sites), and proposed date of transfer; and
 - The new site must meet all requirements of the Program Guidelines.
 - b. Responsibility of First Employer:
 - Provide a letter to the Office of Primary Care Liaison releasing the J-1 Visa physician from employment; and/or
 - Provide an explanation for transfer or termination of contract.
 - c. Responsibility of Second Employer:
 - Provide a letter to the Office of Primary Care Liaison of the intent to employ the J-1 Visa physician;
 - Provide the Office of Primary Care Liaison with a copy of the employment contract; and
 - Provide in writing, with documentation, that the new site meets the eligibility requirements in the Mississippi J-1 Visa Waiver Guidelines and the federal agency sponsoring the J-1 visa waiver.
5. For the foreign physician transferring from another state to a shortage area in Mississippi, the following must be provided:

- a. A Site Predetermination Application must be completed. If an approval is provided, a complete J-1 Visa Waiver application must be submitted, to include a four (4) year employment contract.
- b. The foreign provider must obtain a Mississippi medical license prior to commencing practice.

FOREIGN PHYSICIANS RELEASED DUE TO TERMINATION, MUTUAL RELEASE, OR DEATH:

1. The OPCL must be informed in writing by the sponsoring employer of the following circumstances:
 - a. the sponsoring employer determines that there is reasonable cause to terminate the employment contract of a foreign provider;
 - b. the employer and foreign provider mutually agree to the release from employment;
 - c. there are no funds to reimburse the foreign provider for their services; or
 - d. there is a loss due to the death of the foreign provider.
2. OPCL will assist, in a limited way, the sponsoring employer and foreign physician in resolving termination disputes. However, OPCL will assume no position in the dispute.
3. OPCL will assist, in a limited way, the foreign provider in securing another position in the state.

NATIONAL INTEREST WAIVER (NIW) LETTER REQUESTS:

The following policies apply only to applications the Mississippi State Department of Health has reviewed and/or made recommendations in regards to Mississippi's State 20 and the Appalachian Regional Commission's J-1 Visa Waiver Programs.

1. A NIW support letter for a foreign-trained physician will be given consideration when a physician has been in the employment contract with a Mississippi health facility or medical provider for a minimum of two years of the obligation period.
2. The facility or geographical area in which the foreign physician's placement has occurred must be currently designated as a Mississippi health professional shortage area by the MSDH Office of Primary Care Liaison.
3. A current letter of support from the health facility or medical provider who has

sponsored the original J-1 Visa Waiver must be provided which indicates that the foreign physician placement has resulted in an acceptable or satisfactory condition to support the delivery of primary care services.

4. A statement must be provided, dated and signed by the foreign physician, that he or she agrees to meet the original obligations of the employment contract entered as PL 106-95 does not change the foreign physician's obligation of the original contract terms.
5. In the event that the foreign physician requesting a NIW support letter has completed the original contract terms, the terms noted in items 2 and 3 must be met for consideration of a NIW support letter.
6. The NIW support letter will be addressed to the entity who requests the letter, either the individual foreign physician or the designated representative.
7. A NIW support letter will not be provided when circumstances present that a foreign physician has transferred to a work site other than the original placement without notification to the MSDH.

Certification of Compliance with the Mississippi State 20 J-1 Visa Waiver Program

The Office of Primary Care Liaison will review each waiver application to ensure that the proposed placement will not affect the practice of a U.S. physician or compromise delivery of health care in the professional shortage service area. *A Site Predetermination Application is required to determine if the proposed site will qualify for a J-1 Physician placement.*

The Mississippi State Department of Health is wholly responsible for the interpretation of these Guidelines. The factors that will determine approval or denial will be based on, but not limited to, the following:

1. Physician to population ratio of the specialty providers within the shortage area, including other practicing J-1 physicians serving their commitments;
2. Verification that the employer has a written policy that states that the J-1 Visa physician will accept all patients regardless of their ability to pay and utilize a schedule of discounts or sliding fee scale.
3. The J-1 Visa physician's commitment to practice specialty care in an area(s) designated as having a shortage of healthcare professionals.
4. The foreign trained physician is committed to the area and working with the system of care that is within the service area, and
5. Assurance that the proposed service to be delivered by the J-1 physician does not have an adverse effect on other programs and policies of the state of Mississippi.

I have read and fully understand the terms and conditions of the Mississippi “State 20” J-1 Visa Waiver Guidelines.

____Signature of J-1 Visa Physician

____Date

I have read and fully understand the terms and conditions of the Mississippi
“State 20” J-1 Visa Waiver Guidelines.

____Signature of Chief Executive Officer

____Date